

NEVADA DISPUTE RESOLUTION COALITION (NDRC)

Coalition of Professional Mediators & Arbitrators

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Nancy Cleaves, President
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DATE: June 22, 2009

ADKT 435

TO: Tracie K. Lindeman, Clerk
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada

FILED

FROM: Nancy Cleaves, President
Nevada Dispute Resolution Coalition

JUN 22 2009

RE: Draft Foreclosure Mediation Rules Public Comment

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

On behalf of the Nevada Dispute Resolution Coalition (NDRC) I am delighted to submit the following comments regarding the *Draft Foreclosure Mediation Rules*. The concerns submitted from our members are as follows:

- Mediators should not be referred to as "a presiding mediator" or referred to as "available to hear a mediation", [Exhibit A, Rule 3. (a) (b)]. Rather, the Mediators should be referred to as **facilitators** who conduct and setup the mediation according to the mediation rules. This language implies decision making authority and Mediators should not be granted decision making authority. Arbitrators, however, are granted decision making authority.
- The "non-agreement" should be defined as only reporting that the mediation was not successful, without further commentary. The form should be clearly be defined (i.e. by memo to court, or report to court, etc.).
- The Mediators should be provided protection from a lawsuit with reference to "requisite authority" when reporting bad faith conduct [Rule 3, #2.(e) (1)] or mediators should be required to carry liability insurance.
- Rule 13. Interpreter Services. If the process is not available to minorities due to the expense of an interpreter, are there concerns that allegations of discriminatory practices may arise.
- Clarify by example what documents are to be confidential (i.e. financial statements, etc.) Rule 16.

RESPECTFULLY SUBMITTED BY:

Nancy S. Cleaves

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